

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JANE DOE,
on behalf of herself and all other employees
similarly situated,

Plaintiffs,

*AFFIDAVIT OF STEVEN V. MODICA, ESQ.
PURSUANT TO FRCP 53 (b) (3)*

Civil Action

No. 06-CV-06237 T

v.

JP MORGAN CHASE & CO. and
THE CHASE MANHATTAN BANK,

Defendants.

STEVEN V. MODICA, being duly sworn, deposes and says:

1. I am an attorney at law who is duly admitted to practice in the Courts of the State of New York and in several federal courts, including the United States District Court for the Western District of New York.

2. I make this affidavit pursuant to Rule 53 (b) (3) of the Federal Rules of Civil Procedure and the October 2, 2007 letter from the Honorable Michael A. Telesca to all counsel in the above-captioned action.

3. Pursuant to that letter, Judge Telesca has indicated his intent to appoint me as Special Master in the above-captioned action. This affidavit will address 28 U.S.C. § 455 which sets forth the circumstances under which disqualification would be appropriate.

4. I am aware of no facts or circumstances wherein my impartiality to serve as Special Master might reasonably be questioned (28 U.S.C. § 455 [a]).

5. I have no personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning these proceedings (28 U.S.C. § 455 [b] [1]).

6. I have never represented JP Morgan Chase & Co. or Chase Manhattan Bank in any capacity. Nor are any of the other circumstances in 28 U.S.C. § 455 [b] [2] present.

7. I have not, as part of government employment, participated as counsel, adviser or material witness concerning these proceedings or expressed an opinion concerning the merits of the particular cases at issue in this controversy (28 U.S.C. § 455 [b] [3]).

8. Neither I nor anyone in my family has a financial interest in the subject matter in controversy or in a party to the proceedings, or any other interest that could be substantially affected by the outcome of the proceedings (28 U.S.C. § 455 [b] [4]).

9. My wife and I, and any person within the third degree of relationship to us or the spouse of such a person, are NOT a party to the proceeding, or an officer, director, or trustee of a party; are NOT acting as a lawyer in the proceeding; are NOT known by me to have an interest that could be substantially affected by the outcome of the proceeding; and are NOT known by me likely to be a material witness in the proceeding. I have informed myself about my personal and fiduciary financial interests, and have made a reasonable effort to inform myself about the personal financial interests of my spouse and minor child who resides in my household (28 U.S.C. § 455 [b] [5] & [c]).

10. I make the statements herein under penalty of perjury.

s/Steven V. Modica

Steven V. Modica, Esq.
Special Master Designee
2430 Ridgeway Avenue
Rochester, New York 14626
(585) 227-2070

Sworn to before me this 16th
day of October, 2007.

s/Darlene M. Flynt
Notary Public

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